

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA

vs.

Criminal Action 2:17-cr-0011  
JUDGE ALGENON L. MARBLEY

LATASHA DENISE BARRETT

REPORT AND RECOMMENDATION

The United States of America and defendant Latasha Denise Barrett entered into a plea agreement<sup>1</sup> whereby defendant agreed to enter a plea of guilty to Count 4 of the *Indictment*, which charges her with wire fraud in violation of 18 U.S.C. § 1343, and to Count 29 of the *Indictment*, which charges her with aggravated identity theft in violation of 18 U.S.C. § 1028A(a)(1). On July 10, 2017, defendant, accompanied by her counsel, appeared for a change of plea proceeding. Defendant consented, pursuant to 28 U.S.C. §636(b)(3), to enter a guilty plea before a Magistrate Judge. See *United States v. Cukaj*, 2001 WL 1587410 at \*1 (6<sup>th</sup> Cir. 2001) [Magistrate Judge may accept a guilty plea with the express consent of the defendant and where no objection to the report and recommendation is filed]; *United States v. Torres*, 258 F.3d 791, 796 (8<sup>th</sup> Cir. 2001); *United States v. Dees*, 125 F.3d 261, 263-69 (5<sup>th</sup> Cir. 1997); *United States v. Ciapponi*, 77 F.3d 1247, 1251 (10<sup>th</sup> Cir. 1996).

During the plea proceeding, the undersigned observed the appearance and responsiveness of defendant in answering questions. Based on that observation, the undersigned is satisfied that, at the

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<sup>1</sup> The *Plea Agreement* was executed pursuant to the provisions of Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure in that it would require that the Court impose sentence on Count 4 based on a total offense level no higher than 15 and a term of supervised release. *Plea Agreement*, Doc. No. 16, PageID# 64. The *Plea Agreement* refers to a maximum term of supervised release of three (3) years in connection with Count 4 of the *Indictment*; however, all parties agreed at the change of plea proceeding that the maximum term of supervised release in connection with Count 4 of the *Indictment* is five (5) years. See 18 U.S.C. § 3583(b)(1).

time she entered her guilty pleas, defendant was in full possession of her faculties, was not suffering from any apparent physical or mental illness, and was not under the influence of narcotics or alcohol.

Prior to accepting defendant's plea, the undersigned addressed defendant personally and in open court and determined her competence to plead. Based on the observations of the undersigned, defendant understands the nature and meaning of the 36 charges returned in the *Indictment* and the consequences of her pleas to Counts 4 and 29 of the *Indictment*. Defendant was also addressed personally and in open court and advised of each of the rights referred to in Rule 11 of the Federal Rules of Criminal Procedure.

Having engaged in the colloquy required by Rule 11, the Court concludes that defendant's pleas are voluntary. Defendant acknowledged that the plea agreement signed by her, her attorney, and the attorney for the United States and filed on June 14, 2017, represents the only promises made by anyone regarding the charges in the *Indictment*. Defendant was advised that the District Judge may accept or reject the plea agreement and that, even if the Court refuses to accept any provision of the plea agreement not binding on the Court, defendant may nevertheless not withdraw her guilty plea.

Defendant confirmed the accuracy of the material aspects of the statement of facts supporting the charge, which is attached to the *Plea Agreement*. She confirmed that she is pleading guilty to Counts 4 and 29 of the *Indictment* because she is in fact guilty of those offenses. The Court concludes that there is a factual basis for the pleas.

The Court concludes that defendant's pleas of guilty to Counts 4 and 29 of the *Indictment* are knowingly and voluntarily made with understanding of the nature and meaning of the charges and of the consequences of the pleas.

It is therefore **RECOMMENDED** that defendant's guilty pleas to Counts 4 and 29 of the *Indictment* be accepted. Decision on acceptance or rejection of the plea agreement was deferred for consideration by

the District Judge after the preparation of a presentence investigation report.

In accordance with S.D. Ohio Crim. R. 32.1, and as expressly agreed to by defendant through counsel, a written presentence investigation report will be prepared by the United States Probation Office. Defendant will be asked to provide information; defendant's attorney may be present if defendant so wishes. Objections to the presentence report must be made in accordance with the rules of this Court.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

July 10, 2017  
Date

s/ Norah McCann King  
Norah M<sup>c</sup>Cann King  
United States Magistrate Judge